

CHANGE IN MEDICAID NURSING FACILITY RESIDENT
REVIEW REQUIREMENTS

SEPTEMBER 23, 1996.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. BLILEY, from the Committee on Commerce,
submitted the following

REPORT

[To accompany H.R. 3632]

[Including cost estimate of the Congressional Budget Office]

The Committee on Commerce, to whom was referred the bill (H.R. 3632) to amend title XIX of the Social Security Act to repeal the requirement for annual resident review for nursing facilities under the Medicaid program and to require resident reviews for mentally ill or mentally retarded residents when there is a significant change in physical or mental condition, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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PURPOSE AND SUMMARY

H.R. 3632 amends Title XIX of the Social Security Act to repeal the requirement for an annual resident review for nursing facilities under the Medicaid Program and to require resident reviews for mentally ill or mentally retarded residents when there is a significant change in their physical or mental condition.

BACKGROUND AND NEED FOR LEGISLATION

Since its enactment as part of the Omnibus Budget Reconciliation Act of 1987 (OBRA 1987), the quality assurance standards for nursing home facilities have periodically been amended because of the complexity of the underlying statute and to correct for the unintended consequences caused by the implementation of the statutory provisions. One of the requirements of the Act was an annual resident assessment for all Medicaid nursing home residents. The underlying statute also has as a requirement in Section 1919(e)(7)(B) (i) and (ii) that for each resident of a nursing facility who is mentally ill or mentally retarded, the State mental health or mental retardation authority must review and determine, based on an independent physical and mental evaluation, whether or not the resident requires the level of services provided by a nursing facility. These annual reviews have proved to be an additional review, and, therefore, costly and unnecessary. The Committee, the States, and the Administration agree that this additional annual review is unnecessary.

H.R. 3632 repeals the requirement for an annual resident assessment for the mentally ill and the mentally retarded. This bill would require, as an alternative, these additional resident reviews by the State mental health or mental retardation authority for mentally ill or mentally retarded residents when there is a significant change in the resident's physical or mental condition.

HEARINGS

The Committee on Commerce has not held hearings on this specific legislation, however, this duplication was discussed during the overview hearings on the Reform of the Medicaid Program.

COMMITTEE CONSIDERATION

On September 18, 1996, the Committee on Commerce met in open markup session and ordered H.R. 3632, a bill to amend Title XIX of the Social Security Act to repeal the requirement for annual resident review for nursing facilities under the Medicaid Program and to require resident reviews for mentally ill or mentally retarded residents when there is a significant change in physical or mental condition, reported to the House, without amendment, by a voice vote, a quorum being present.

ROLLCALL VOTES

Clause 2(1)(2)(B) of rule XI of the Rules of the House requires the Committee to list the recorded votes on the motion to report legislation and amendments thereto. There were no recorded votes taken in connection with ordering H.R. 3632 reported. A motion by

Mr. Bliley to order H.R. 3632 reported to the House, without amendment, was agreed to by a voice vote, a quorum being present.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 2(1)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee has not held oversight or legislative hearings on this legislation.

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

Pursuant to clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives, no oversight findings have been submitted to the Committee by the Committee on Government Reform and Oversight.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

In compliance with clause 2(1)(3)(B) of rule XI of the Rules of the House of Representatives, the Committee states that H.R. 3632 would result in no new or increased budget authority or tax expenditures or revenues.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 403 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 2(1)(3)(C) of rule XI of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 403 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 18, 1996.

Hon. THOMAS J. BLILEY, Jr.,
*Chairman, Committee on Commerce,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 3632 as ordered reported by the Committee on Commerce on September 18, 1996. The bill would repeal the requirement for annual resident review for nursing facilities under the Medicaid program and would require resident reviews for mentally ill or mentally retarded residents only when there is a significant change in their physical or mental condition. Pay-as-you-go procedures would apply because the bill would affect administrative costs of the Medicaid program, which are direct spending.

Pre-admission screening and annual resident review requirements (PASARR) for nursing facility residents were enacted as part of the Omnibus Budget Reconciliation Act of 1987. CBO estimates the repeal of the requirement for annual resident review for mentally retarded and mentally ill nursing facility residents would re-

duce Medicaid administrative costs by \$8.5 million annually, about one-quarter of the total federal expenses of implementing PASARR.

This bill contains no intergovernmental or private sector mandates as defined in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4) and would save states \$3.5 million annually in Medicaid payments.

If you wish for further details on this estimate, we would be pleased to provide them. The CBO staff contact is Robin Rudowitz, who can be reached at 226-9010.

Sincerely,

JAMES L. BLUM
(For June E. O'Neill, Director).

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee finds that H.R. 3632 would have no inflationary impact.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act are created by this legislation.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Repeal of requirement for annual resident review for mentally ill and mentally retarded nursing facility residents

Section 1 repeals the requirement under the Medicaid program for an annual resident review for mentally ill and mentally retarded residents who reside in nursing facilities. These amendments become effective on the date of enactment of this Act.

Section 2. Requirement for review in case of significant change in physical or mental condition of mentally ill or mentally retarded nursing facility residents

Section 2(a) requires that a nursing facility shall promptly notify the State mental health authority or State mental retardation or developmental disability authority, as applicable, after a significant change in the physical or mental condition of a resident who is mentally ill or mentally retarded.

Section 2(b) adds a new requirement that an assessment review must be conducted promptly after a nursing facility has notified the appropriate State authority that there has been a significant change in a resident's physical or mental condition.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SECTION 1919 OF THE SOCIAL SECURITY ACT

REQUIREMENTS FOR NURSING FACILITIES

SEC. 1919. (a) * * *

(b) REQUIREMENTS RELATING TO PROVISION OF SERVICES.—

(1) * * *

* * * * *

(3) RESIDENTS' ASSESSMENT.—

(A) * * *

* * * * *

(E) COORDINATION.—Such assessments shall be coordinated with any State-required preadmission screening program to the maximum extent practicable in order to avoid duplicative testing and effort. *In addition, a nursing facility shall notify the State mental health authority or State mental retardation or developmental disability authority, as applicable, promptly after a significant change in the physical or mental condition of a resident who is mentally ill or mentally retarded.*

* * * * *

(e) STATE REQUIREMENTS RELATING TO NURSING FACILITY REQUIREMENTS.—As a condition of approval of its plan under this title, a State must provide for the following:

(1) * * *

* * * * *

(7) STATE REQUIREMENTS FOR PREADMISSION SCREENING AND RESIDENT REVIEW.—

(A) * * *

(B) STATE REQUIREMENT FOR [ANNUAL] RESIDENT REVIEW.—

(i) * * *

* * * * *

[(iii) FREQUENCY OF REVIEWS.—

[(I) ANNUAL.—Except as provided in subclauses (II) and (III), the reviews and determinations under clauses (i) and (ii) must be conducted with respect to each mentally ill or mentally retarded resident not less often than annually.

[(II) PREADMISSION REVIEW CASES.—In the case of a resident subject to a preadmission review under subsection (b)(3)(F), the review and determination under clause (i) or (ii) need not be done until the resident has resided in the nursing facility for 1 year.

[(III) INITIAL REVIEW.—The reviews and determinations under clauses (i) and (ii) must first be conducted (for each resident not subject to preadmission review under subsection (b)(3)(F)) by not later than April 1, 1990.]

(iii) *REVIEW REQUIRED UPON CHANGE IN RESIDENT'S CONDITION.*—A review and determination under clause (i) or (ii) must be conducted promptly after a nursing facility has notified the State mental health authority or State mental retardation or developmental disability authority, as applicable, under subsection (b)(3)(E) with respect to a mentally ill or mentally retarded resident, that there has been a significant change in the resident's physical or mental condition.

* * * * *

(D) DENIAL OF PAYMENT.—

(i) FOR FAILURE TO CONDUCT PREADMISSION SCREENING OR [ANNUAL] REVIEW.—No payment may be made under section 1903(a) with respect to nursing facility services furnished to an individual for whom a determination is required under subsection (b)(3)(F) or subparagraph (B) but for whom the determination is not made.

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